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SUBJECT: BULGARIA: 2010 INVESTMENT CLIMATE STATEMENT

REF: 09 STATE 124006

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11. Bulgaria - 2010 Investment Climate Statement.

1A. OPENNESS TO FOREIGN INVESTMENT

Bulgaria has put in place a liberal foreign investment regime, including low, flat corporate and income taxes and competitive incentives to attract high levels of foreign investment. Promising sectors for foreign investors include: energy (including renewable and clean energies), information technology, transportation, telecommunications, environmental (including water and waste water infrastructure) and agriculture. EU integration has opened new markets for Bulgarian-produced goods and services. Bulgaria's labor market is generally well-educated and the cost of labor is the lowest in the European Union. The country's geographic position places it at the crossroads of Europe, the Middle East, and the former Soviet Union. A stable U.S. ally, Bulgaria is a member of NATO, the EU and the WTO.

Investment Trends and Policies

Sound economic performance and political stability have enabled Bulgaria to attract leading foreign investors. Gradual convergence with the EU common market, fiscal prudence, and a national currency pegged to the Euro have all provided stability and incentives for increased trade and investment. After several years of solid growth, the global financial crisis is being felt in Bulgaria through decreasing levels of foreign direct investment (FDI). In 2009, FDI decreased by over 50 percent. The economy remains vulnerable due to a decline in external demand and tightening of credit. Growth forecasts for 2010 range from a -2.5% contraction to a nominal increase.

The Investment Promotion Act stipulates equal treatment of foreign and domestic investors. It creates conditions for improved administrative services and includes an investment incentive package. The law encourages investment in manufacturing and renewable energy, in high-technology, as well as in education and human resource development. The law explicitly recognizes intellectual property and securities as foreign investments.

Common Forms of Investment

The most common type of organization for foreign investors is a limited liability company. Effective January 1, 2010, the fee to register a limited liability company has been reduced to one Euro. Other typical corporate entities include joint stock companies, joint ventures, business associations, general and limited partnerships, and sole proprietorships.

Foreign investors must comply with the 1991 Commercial Code, which regulates commercial and company law and the 1951 Law on Obligations and Contracts, which regulates civil transactions. These laws generally do not limit foreign participation in legal entities.

The 2003 Law on Special Purpose Investment Companies (SPIC) allows for public investment companies in real estate and receivables, essentially real estate investment trusts (REITs). Since a SPIC is considered a pass-through structure for corporate income tax purposes, at least 90 percent of its net income must be distributed to shareholders as taxable dividends. A SPIC must apply for an operational license from the Financial Supervision Commission within six months of registration.

Investment Barriers

Foreign investors often encounter the following problems: a sluggish government bureaucracy, poor infrastructure, corruption, frequent changes in the legal framework, and pre-determined public tenders. In addition, a weak judicial system limits investor confidence in the courts' ability as an enforcement mechanism.

EU accession requirements have led to the adoption of a constitutional amendment which, beginning in 2014, will allow EU citizens and entities to acquire real property, while all other foreigners will be able to do so only on the basis of an international agreement ratified by the Bulgarian Parliament, thereby favoring EU investors over those from the United States. There are no legal restrictions against real property acquisition by locally-registered, majority foreign-owned companies, which is the method most foreigners use to purchase property in Bulgaria.

Privatization

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In 1992, the Law on Transformation and Privatization of State and Municipal Enterprises established the Privatization Agency to administer the privatization of all state-owned companies. Privatization methods include: public auctions, public tenders, and public offerings. Foreign companies, including state-owned ones, may purchase Bulgarian state-owned firms. Bulgaria completed its major privatization in the 1990s and early 2000s, and the privatization program is gradually phasing out. In 2010, the Bulgarian government plans to privatize two district heating plants, two military factories, three free trade zones, the state tobacco company, and up to 15 percent of the Bulgarian Energy Holding.

The 2002 Privatization and Post-Privatization Act established a Post-Privatization Control Agency to oversee the implementation of privatization contracts. This body ensures that non-price privatization commitments (employee retention, technology transfer, environmental liability and investment) in the privatization selection criteria are honored. In addition, creditors are no longer required to claim their receivables within six months from the start of the privatization.

Concessions

Under the 2006 Law on Concessions, the state is authorized, on the basis of a concession agreement, to grant private investors a partial monopoly. Concessions are awarded on central and/or local government property, on the basis of a tender, and are issued for up to 35 years. The concession period may not be extended beyond this time limit. The decision for awarding a concession may be appealed before the Competition Protection Commission. There are three main concession categories: construction, services, and mining and exploration. Potential fields for concessions may therefore include the construction of roads, ports and airports, power generation and transmission, mining, petroleum exploration/drilling, telecommunications, forests and parks, beaches, and nuclear installations.

Third-party Rankings

Index Year Ranking

TI Corruption Perception 2009 71(out of 180)

Heritage Economic Freedom 2009 56 (out of 179)

World Bank Doing Business:
Overall 2010 44 (out of 183)

World Bank Doing Business:
Starting a Business 2010 50 (out of 183)

World Bank Doing Business:
Dealing with Licenses 2010 119 (out of 183)

World Bank Doing Business:
Employing Workers 2010 53 (out of 183)

World Bank Doing Business:
Registering Property 2010 56 (out of 183)

World Bank Doing Business:
Getting Credit 2010 4 (out of 183)

World Bank Doing Business:
Protecting Investors 2010 41 (out of 183)

World Bank Doing Business:
Paying Taxes 2010 95 (out of 183)

World Bank Doing Business:
Trading Across Borders 2010 106 (out of 183)

World Bank Doing Business:
Enforcing Contracts 2010 87 (out of 183)

World Bank Doing Business:
Closing a Business 2010 78 (out of 183)

1B. CONVERSION AND TRANSFER POLICIES

In 1999, Bulgaria replaced much of its outdated and fragmented foreign currency legislation and liberalized current international transactions in accordance with IMF Article VIII obligations. The

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2007 amendments to the 1999 Foreign Currency Act stipulate that anyone may import or export up to EUR 10,000 (USD 13,970) or its foreign exchange equivalent without making a customs declaration. Importing or exporting over EUR 10,000 or its foreign exchange equivalent must be declared. Exporting over BGN 25,000 (USD 17,850) in cash must be accompanied by a declaration about the source of these funds and supported by documents certifying that the person does not owe taxes. No tax certificate is required for foreigners exporting the cash equivalent of BGN 25,000 or greater provided the amount is equal to or less than the amount declared when imported. Bulgarian law requires all international payments over BGN 25,000 to be executed via bank transfer with supporting documentation detailing the purpose of the transaction.

1C. EXPROPRIATION AND COMPENSATION

Private real property rights are legally protected by the Bulgarian Constitution. Only in the case where a public need cannot be met by other means, the Council of Ministers or a regional governor may expropriate land provided that the owner is compensated at fair market value. No taxes are levied on the expropriation transaction. Expropriation actions of the Council of Ministers can be appealed directly to the Supreme Court on the legality of the action itself, the property appraisal, or the amount of compensation. A regional governor's expropriation can be appealed in the appropriate local court. In its Bilateral Investment Treaty (BIT) with the United

States, Bulgaria committed itself to international arbitration in the event of expropriation and other investment disputes.

1D. DISPUTE SETTLEMENT

The Judicial System

The Bulgarian Constitution serves as the foundation of the legal system and creates an independent judicial branch comprised of judges, prosecutors, and investigators. Despite reform efforts, the judiciary suffers from serious backlogs and overly formalistic procedures that hamper the swift and fair administration of justice.

Corruption remains a serious problem. Public opinion polls indicate that bribes are commonly paid in the judicial sector and some courts are beholden to business ties and political influence.

There are three levels of courts. The 117 regional courts exercise jurisdiction over civil and criminal cases. Above them, 29 district courts (including the Sofia City Court) serve as courts of appellate review for regional court decisions and have trial-level (first-instance) jurisdiction in serious criminal cases and in civil cases where claims exceed BGN 25,000 (USD 17,850) or in property cases where the property's value exceeds BGN 50,000 (USD 35,700). Five appellate courts review the first-instance decisions of the district courts. The Supreme Court of Cassation is the court of last resort for criminal and civil appeals. The Supreme Court of Administration rules on local and national government decisions and the Constitutional Court, which is a separate from the rest of the judiciary, issues final rulings on constitutional questions and challenges.

Bankruptcy

The 1994 Commercial Code Chapter on Bankruptcy provides for reorganization or rehabilitation of a legal entity, maximizes asset recovery and provides for fair and equal distribution among all creditors. The law applies to all commercial entities, except public monopolies or state-owned companies established by a special law. Bank bankruptcies are regulated under the Bank Bankruptcy Act, while the 1996 Insurance Act regulates insurance company failures.

Under Part IV of the Commercial Code, debtors or creditors can initiate bankruptcy proceedings. The debtor must declare bankruptcy within 30 days of becoming insolvent. Once insolvency is determined, the court appoints an interim trustee to represent and manage the company, take inventory of property and assets, identify and convene the creditors, and develop a recovery plan. At the first meeting of the creditors, a trustee is nominated; usually this is just a reaffirmation of the court appointed trustee.

Non-performance of a monetary obligation must be adjudicated before the bankruptcy court can determine whether the debtor is insolvent. In addition, legislation passed in 2003 adds a presumption of insolvency when the debtor is unable to perform an executable obligation, has suspended all payments, or when the debtor can only pay the claims of certain creditors.

Creditors must declare all debts owed to them within one month of the start of bankruptcy proceedings. The trustee then has seven

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days to compile a list of debts. A rehabilitation plan or a scheme of distribution (in cases of liquidation) must be proposed no later than a month after the date on which the court approves the list of debts. The court must grant approval of the plan by the creditors within seven days. After creditors' approval, the court endorses the plan and terminates the bankruptcy proceeding. The lack of trained trustees has been a problem in the past. The June 2003 legislation provided for examinations for individuals applying to become trustees and obliged the Ministers of Justice and Economy to organize annual training courses for trustees. In June 2006, the ministries of Justice, Economy and Finance published a regulation on the procedure for appointment, qualification and control over the trustees.

The methods of liquidating assets were also revised by the June 2003 legislation. The main objective was to establish a legal framework for selling assets that accounts for the character of bankruptcy proceedings, thus avoiding the need to apply the Civil Procedure Code. The new regime includes rules requiring a greater degree of publicity for asset sales. The amendments also limited the rights to appeal judicial decisions made during bankruptcy proceedings.

Execution of Judgments

To execute a judgment, a final ruling must be obtained. The court of first instance must then be petitioned for a writ of execution (based on the judgment). On the basis of the writ of execution, a specialized category of professionals, execution agents, seize the assets or ensure the performance of the ordered action. The institutional framework for execution of judgments was improved with a 2005 law allowing private professionals to act as execution agents. Since 2006 both private and state execution agents operate in Bulgaria. Businesses report a dramatic increase in the efficiency of execution of judgments after the introduction of private execution agents. A new Civil Procedure Code, effective since March 2008, introduced new terms and practices aimed to streamline civil procedures, including the execution of judgments. Foreign judgments can be executed in Bulgaria. Execution depends on reciprocity, as well as bilateral or multilateral agreements, as determined by an official list maintained by the Ministry of Justice. The United States does not currently have reciprocity with Bulgaria; Bulgarian courts are not obliged to honor decisions of U.S. courts. All foreign judgments are handled by the Sofia City Court, which must determine that the judgment does not violate public decrees, standards, or morals before it can be executed. There are also cases defined by the Civil Procedure Code (certain real estate issues and Bulgarian precedents), in which judgments cannot be executed even if they conform to Bulgarian laws and morals.

International Arbitration

Pursuant to its Bilateral Investment Treaty (BIT) with the United States, Bulgaria has committed to a range of dispute settlement procedures starting with notification and consultations. Bulgaria accepts binding international arbitration in disputes with foreign investors.

The most experienced arbitration institution in Bulgaria is the Arbitration Court (AC) of the Bulgarian Chamber of Commerce and Industry (BCCI). Established more than 110 years ago, the AC hears civil disputes between legal persons, one of whom must be seated outside Bulgaria. It began to act as a voluntary arbitration court between natural and/or legal persons domiciled, respectively seated in Bulgaria, since 1989.

Arbitration is regulated by the 1988 Law on International Commercial Arbitration, which complies with the United Nations Commission on International Trade Law (UNCITRAL) Model Law. According to the Code of Civil Procedure, not all disputes may be resolved through arbitration. Disputes regarding rights over real estate situated in the country, alimony, or individual labor disputes may only be heard by the courts. In addition, under the Code of Private International Law of 2005, Bulgarian courts have exclusive competence over industrial property disputes regarding patents issued in Bulgaria.

Regarding arbitration clauses that select a foreign court of arbitration, the Code of Civil Procedure mandates that these clauses are only valid if at least one of the parties maintains its residence abroad. As a result, foreign-owned, Bulgarian-registered companies having a dispute with a Bulgarian entity can only have arbitration in Bulgaria. However, under the Law on the International Commercial Arbitration, the arbitrator himself could be a foreign person. Under the same act, the parties can agree on the language to be used in the arbitration proceedings. Arbitral

awards are enforced through the judicial system. The party must petition the Sofia City Court for a writ of execution. Having obtained a writ however, the creditor needs then to execute the award using the general framework for execution of judgments in the country. Foreclosure proceedings may also be initiated.

Bulgaria is a member of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards and the 1961 European Convention on International Commercial Arbitration. Bulgaria is also a signatory of the 1996 Convention on the Settlement of Investment Disputes between States and Nationals of Other States. There are arbitration courts at the Bulgarian Industrial Association (BIA), the Bulgarian Stock Exchange, the Bulgarian Maritime Chamber, the Commercial Banks Association and several other organizations.

Mediation

Mediation was first introduced in Bulgaria in 2004 with the adoption of the Mediation Act. The Bulgarian Chamber of Commerce and Industry and the American Chamber of Commerce (AmCham) opened commercial mediation centers with USAID-trained mediators. Several other mediation centers continue to operate and train new mediators. Mediation, however, is still not widely used due to the limited public awareness and judges' reluctance to recommend alternative dispute resolution.

1E. PERFORMANCE REQUIREMENTS AND INCENTIVES

Bulgaria does not impose export performance or local content requirements as a condition for establishing, maintaining, or expanding an investment. Employment visas and permits are required for most expatriate personnel from non-EU countries. Permanent residence permits are often difficult to obtain. Private companies cannot exceed a 1:10 ratio of non-EU residents to Bulgarian employees. A June 1999 law regulating gambling imposes licensing requirements on foreigners organizing games of chance.

The Invest Bulgaria Agency (IBA), the government's investment coordinating body, provides information, administrative services, and incentive assessments to prospective foreign investors. Foreign investments over BGN 32 million, (about USD 23 million) are deemed to be priority "Class A" investment projects. At the request of investors receiving Class A investment certificates, IBA can recommend that the competent authorities grant them free real estate (either state or municipal property). Class A investments are also eligible to apply for state financing for critical infrastructure deemed necessary for the investment plan's implementation. Additionally, IBA represents "Class B" investment projects (over BGN 16 million, or USD 11.5 million) before government authorities, and assists with processing all administrative documents. The government policy for investment promotion is not applicable to investments in coal mining, steel production, shipbuilding, synthetic production, agriculture, and fisheries. In addition, the Investment Promotion Act recognizes Class A and Class B investors for investments in high-technology manufacturing and services, or in regions with an unemployment rate equal to or higher than the country average. A two-year VAT exemption on equipment imports applies to investment projects over EUR 5 million (USD 7 million), provided that the project creates at least 50 new jobs.

1F. RIGHT TO PRIVATE OWNERSHIP AND ESTABLISHMENT

Article 19 of the Constitution states that the Bulgarian economy "shall be based on free economic initiative." Private entities can establish and own business enterprises engaging in any profit-making activities, unless expressly prohibited by law. Bulgaria's Commercial Code guarantees and regulates the free establishment, acquisition, and disposition of private business enterprises. Competitive equality is the standard applied to private enterprises in competition with public enterprises.

1G. PROTECTION OF PROPERTY RIGHTS

Bulgarian law protects the acquisition and disposition of property rights. In practice, the protection of property rights is subject to various difficulties. Although Bulgarian intellectual property

rights (IPR) legislation is generally adequate - and in some cases stronger than in other EU countries - industry representatives believe effective IPR protection requires stronger enforcement, including stricter penalties for offenders. In 2006, Parliament passed legislation to strengthen Bulgaria's IPR-related legal framework. The Law on Copyright and Related Rights, the Law on Patents and Registration of Utility Models, the Law on Marks and Geographical Indications, the Law on Industrial Design and the Penal Code were all harmonized with international standards. As a major

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step toward improving the work of the judiciary, Parliament adopted a completely new Penal Procedure Code in 2006. Bulgaria is a member of the World Intellectual Property Organization (WIPO) and a signatory to key international agreements, including WIPO Internet treaties.

Recognizing Bulgaria's IPR improvements, the United States Trade Representative (USTR) removed Bulgaria from the Special 301 Watch List in April 2006. Although the sale of pirated optical disc media is diminishing, Internet piracy is turning out to be the greatest challenge for the Bulgarian government and rights holders. The software piracy rate for end users and businesses was 69 percent in 2008. The Bulgarian legal system has not kept pace with new Internet-based technologies. As a result, very few IPR cases were successfully prosecuted in 2009.

Copyrights

The 1993 Law on Copyright and Related Rights protects literary, artistic, and scientific works. Article 3 provides a full listing of protected works including computer programs (which are protected as literary works). The Law distinguishes between moral and economic rights. The use of protected works is prohibited without the author's permission, except in certain instances. Since 2000 the Law has undergone major revisions to comply with EU and international legislation.

The term for protection of copyrighted works is 70 years after the author's death. For films and other audio-visual works, copyrights are protected during the lives of director, screenplay-writer, cameraman, or the author of dialogue or music, plus 70 years. Other amendments to the copyright law enabled copyright owners to file civil claims to terminate infringing activity, provided for confiscation of equipment and pirated materials, enhanced border control over pirated material, strengthened copyright protection for film producers, and harmonized Bulgarian legislation with the EU Association Agreement. The Copyright Office in the Ministry of Culture is responsible for copyright matters in Bulgaria. The National Film Center is responsible for enforcing intellectual property rights with regard to films and videos. Bulgarian legislation provides for criminal, civil and administrative remedies against copyright violation, but because of the small number of court judgments and sentences, law enforcement is still inadequate.

Patents

Bulgarian patent law has been harmonized with EU law in the areas of application for European patents and the patent protection in general. Bulgaria joined the Convention on the Granting of European Patents (European Patent Convention) in 2002. Bulgaria grants the right to exclusive use of inventions for 20 years from the date of patent application, subject to payment of annual fees. Innovations can also be protected as utility models ("small inventions"). The term of validity of a utility model registration is four years as of the filing date with the Patent Office. It may be extended by two consecutive three-year periods, but the total term of validity may not exceed 10 years.

Inventions eligible for patent protection must be new, involve an inventive step, and be capable of industrial application. Article 6 of the Law on Patent and Utility Model Registration lists items not regarded as inventions, and Article 7 lists the so-called exceptions to patentability. With regard to utility models, no registration

shall be granted for methods and objects in the field of biotechnology.

Located in the Ministry of Economy, Energy and Tourism, the independent Patent Office is the competent authority with respect to patent matters. The patent law describes patent application procedures and the examination process. Patent applications are submitted directly to the Patent Office and recorded in the state register. Compulsory licensing may be ordered under certain conditions: if the patent has not been used within four years of filing the patent application or within three years from the date of issue; the patent holder is unable to offer justification for not adequately supplying the national market; or declaration of a national emergency. Disputes arising from the creation, protection, or use of inventions and utility models can be heard and settled under administrative, civil, or arbitration procedures. Disputes are reviewed by specialized panels convened by the President of the Patent Office, and may be appealed to the Sofia Administrative Court within three months of the panel's decision. Patent infringements are punishable by administrative fines from BGN 300 to 20,000 (USD 214-14,280).

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Pursuant to the 1996 Protection of New Types of Plants and Animal Breeds Act, the Patent Office can issue a certificate which protects new types of plants and animal breeds for between 25 and 30 years. In 1998, Parliament ratified the 1991 International Convention for the Protection of New Varieties of Plants (UPOV).

Data Exclusivity

Responding to long-standing industry concerns, the Bulgarian government included a provision to provide data exclusivity (protection of confidential data submitted to the government to obtain approval to market pharmaceutical products) in its Drug Law, which took effect in April 2007. As of January 1, 2007, Bulgaria grants supplemental protection certificates for pharmaceutical products and plant protection products under the EU Regulations. This protection is similar to that provided in the U.S.

Trademarks

In 1999, Parliament passed a series of laws on trademarks and geographical indications, industrial designs, and integrated circuits in accordance with TRIPs requirements and the government's EU Association Agreement. The Trademarks and Geographical Indications Act (TGIA), as amended in 2005 and 2006 to comply with EU standards, regulates the establishment, use, suspension, renewal and protection of rights of trademarks, collective and certificate marks, and geographic indications.

Registration is refused, or an existing registered trademark is cancelled, if a trademark constitutes a reproduction or an imitation, or if it creates confusion with a registered or well-known trademark, as stipulated by the Paris Convention and the TGIA. Applications for registration must be submitted to the Patent Office. Under the TGIA, well-known trademarks can now be entered into a special state register by the Patent Office or the Sofia Administrative Court. In addition, Bulgaria is a member of the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration.

Right of priority with respect to trademarks that do not differ substantially is given to the application that was filed in compliance with Article 32 of the TGIA. Right of priority is also established on the basis of a request made in one of the member countries of the Paris Convention or of the World Trade Organization. To exercise the right of priority, the applicant must file a request within six months of the date of original filing. A trademark is normally granted within eighteen months of filing a complete application. Refusals can be appealed to the Disputes Department of the Patent Office. The decisions of this department can be appealed to the Sofia Administrative Court within three

months of the decision. The right of exclusive use of a trademark is granted for ten years from the date of submitting the application. Extension requests must be filed during the final year of validity, but not less than six months prior to expiration. Protection is terminated if a trademark is not used for a five-year period.

Trademark infringement is a problem in Bulgaria for many U.S. manufacturers. Bulgarian legislation provides for criminal, civil, and administrative remedies against trademark violation. Although severe punishments (up to five years in prison) are available, in practice court rulings are rare and sentencing is lenient.

In Bulgaria, trademark and service-marks and rights to geographic indications are only protected pursuant to registration with the Bulgarian Patent Office or an international registration mentioning Bulgaria; they do not arise simply with "use in commerce" of the mark or indication. Under Bulgarian law, legal entities cannot be held criminally liable. Similarly, criminal penalties for copyright infringement and willful trademark infringement are limited, compared to enforcement mechanisms available under U.S. law.

Industrial Designs

Under Bulgarian law, industrial designs which are new and original can be granted certificates and entered in a state register. The term of protection is 10 years, which is renewable to up to 25 years. The procedures and conditions for enforcement of industrial design rights are similar to those provided for trademarks.

11H. TRANSPARENCY OF THE REGULATORY SYSTEM

Regulatory Environment

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In general, the regulatory environment in Bulgaria is characterized by complex regulations, lack of transparency, and arbitrary or weak enforcement. These factors create incentives for public corruption and, as a result, foreign investors may experience a cumbersome investment climate.

In 2003, Parliament passed the Restriction of Administrative Regulation and Control of Economic Activity Act, which establishes a general and systematized set of rules for simplifying and implementing administrative regulations. The law defines 42 operations that must be licensed and introduces two other simplified regimes, i.e., registration and permit regimes. From the perspective of regulatory relief, this law was a milestone. It sets forth firm market principles of regulation, requires all regulations to be justified by defined need (in terms of national security, environmental protection, or personal and material rights of citizens), and prohibits incidental restrictions to the stated purposes of the regulation. The law also requires that the regulating authority perform a cost-benefit analysis of any proposed regulation. In addition, the law eliminates bureaucratic discretion in granting requests for routine economic activities, and provides for "silent consent" when the government does not respond to a request in the allotted time. All these reforms considerably lighten the potential of regulatory abuse at all levels of government. While the law creates a ground-breaking normative framework, its implementation and consistent enforcement has yet to be fully realized.

Major Taxation Issues Affecting U.S. Businesses

Bulgaria has one of the lowest tax rates in the EU. In 2007 and 2008, the government moved from a progressive tax system to a flat 10-percent tax on corporate income and individual income. Certain tax incentives, such as an exemption from corporate tax, apply in regions of high unemployment. Physical persons, but not legal ones, in certain industries, pay a "patent" tax (presumptive tax), according to a schedule established by Parliament. Since January 1,

2008, the size of the "patent tax" is determined by and payable to the municipal authorities. Dividends (and liquidation quotas) distributed by a Bulgarian resident company to U.S. investors are subject to a withholding tax of 5 percent. A 50-percent depreciation rate is applied on investment in new machinery and other equipment, computer hardware, and computer software.

The Treaty for Avoidance of Double Taxation (TADT) between the United States and Bulgaria was signed in February 2007 and entered into force on January 1, 2009. The Treaty applies only to direct taxes and excludes indirect levies, such as value-added and excise taxes, as well as all social contributions. It also applies to all sources of income that residents of either state have received "at source" in the other state. The TADT is designed to reduce the tax burden for residents of both states, which will stimulate cross-border trade and investment.

Foreign employees are required to have the same insurance and unemployment compensation packages as Bulgarian employees. Employers must contribute 12.0 and 4.8 percent of employees' gross wages for social security and health insurance respectively. Employers must also pay 60 percent social security and health insurance contributions to an unemployment fund. Companies contribute one percent of gross wages to a workers compensation fund. In 2010, the monthly maximum for social contributions is set at BGN 2,000 (USD 1,420).

Bulgaria has a 20 percent single-rate value-added tax (VAT), except for some tourist services upon which VAT is levied at seven percent. VAT registration is mandatory for companies with turnover exceeding BGN 50,000 (USD 35,700) for a period not exceeding 12 consecutive months, while all others can register voluntarily. A different VAT regime is in place for trade in goods between Bulgaria and the other EU member countries.

All goods and services are subject to VAT except exports, international transport, and precious metals supplied to the central bank. VAT payments are generally refunded when goods are resold. Exporters may claim VAT refunds within a 30-day period. Excise taxes are levied on tobacco, alcoholic beverages, fuels, certain types of automobiles, and gambling. Investors are entitled to VAT refunds on locally-purchased goods within 10 days if they meet certain investment criteria.

Foreign investors have asserted that widespread tax evasion, combined with weak enforcement, place them at a disadvantage. Another problem underscored by investors is the frequent revision of tax laws, sometimes without sufficient notice.

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Energy Regulation

The Energy Law establishes a predictable regulatory environment in the energy sector where the key regulatory responsibilities are vested with the State Energy and Water Regulatory Commission - an independent body. In mid-2007, the electricity market in Bulgaria was liberalized to comply with EU energy legislation. The restructuring of electricity monopolies provided equal market access and fair competition in the sector.

Competition Policy

The 2008 Law on the Protection of Competition (the "Competition Law") is intended to implement EU rules which promote competition and consumer protection. The Competition Law forbids monopolies, restrictive trade practices, abuse of market power, and unfair competition. Companies are prohibited from: direct or indirect pricing practices; distribution of market shares and supply sources; limiting manufacturing development to the detriment of consumers; discriminatory treatment of competing customers; tying contracts to additional and unrelated obligations; and the use of economic coercion to cause mergers. The law prohibits certain forms of unfair competition: damaging competitors' goodwill,

misrepresentation with respect to goods or services, misrepresentation with respect to the origin, manufacturer, or other features of goods or services; the use or disclosure of someone else's trade secrets in violation of good faith commercial practices; and, "unfair solicitation of customers" (promotion through gifts and lotteries), which may create difficulties for some foreign enterprises. Monopolies can only be established by law for certain categories of activities: railway and postal services; use of atomic energy; production of radioactive materials; and weapons production. The Competition Law expands the competency of the Commission for Protection of Competition (CPC), defines the prohibition on misuse of an oligopoly, and imposes a single criterion for assessing the significance of planned concentration: the aggregate turnover of the enterprises affected by the concentration.

I. EFFICIENT CAPITAL MARKETS AND PORTFOLIO INVESTMENT

Since 1997, the Bulgarian Stock Exchange (BSE) has operated under a license from the Securities and Stock Exchange Commission (SSEC). The 1999 Law on Public Offering of Securities regulates the issuance of securities, securities transactions, stock exchanges, and investment intermediaries. Comprehensive amendments to this law establish significant rights for minority shareholders of publicly-owned companies in Bulgaria. In addition, they create an important foundation for the adoption of international best practices for corporate governance principles in public companies.

The BSE's infrastructure has substantially improved in recent years, including the establishment of an official index (SOFIX), an Internet-based trading system, and a growing number of brokers. Investors access the BSE to trade corporate stock government bonds, corporate bonds, Bulgarian Depositary Receipts, municipal bonds, and mortgage-backed bonds.

In 2008, the BSE lost almost 60 percent of its market capitalization as global financial crisis forced large foreign institutional investors to reduce their exposure. The BSE declined another 51 percent to BGN 10.83 billion (USD 8 billion) through June 2009. Following an 80 percent decline in 2008, the large-cap SOFIX index declined 0.54 percent in the first half of 2009, and then by 11 percent in the third quarter of 2009. In the first half of 2009, the BSE reported 44 percent lower trading volume (BGN 926 million, USD 700 million) compared to the same period in 2008, and the overall number of individual transactions also fell by 58 percent. The Bulgarian government is planning to sell its 43% share in the BSE to a major stock exchange.

The Banking System

The Bulgarian banking system has undergone considerable transformation since its virtual collapse in 1996 and now demonstrates both high predictability and client and investor confidence. There are 30 commercial banks (24 subsidiaries and 5 branches), with total assets of BGN 69.7 billion (about USD 53.5 billion) and an annual growth of 1.3 percent in November 2009 or 105 percent of the projected 2009 GDP. Approximately 39.6 percent of bank assets are concentrated in three banks: Bulbank, DSK Bank, and United Bulgarian Bank (UBB).

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Bulgaria has completed the privatization of its state-owned banks, attracting some strong foreign banks as strategic investors. Foreign investors drawn to the Bulgarian banking industry include UniCredito Italiano SpA (UCI), BNP PARIBAS, KBC, National Bank of Greece, Societe Generale, Bank Austria Creditanstalt, Raiffeisen International, OTP Group, American Life Insurance Company - Consolidated Eurofinance Holdings, and Citibank.

Bulgaria's banking system is highly capitalized. Reflecting expanded lending in recent years, the average capital adequacy ratio (capital base to risk-weighted credit exposures) for the banking system has steadily declined from 43 percent at end-1998 to 17.4 percent in September 2009, but still remains above the Bulgarian

National Bank's requirement of 12 percent. Domestic banks have responded to the global financial crisis by reducing risk exposure through increased interest rates on both deposits and loans.

Government Securities

The Bulgarian government finances some of its expenditures by issuing bonds in capital markets. Commercial banks are the primary purchasers of these instruments, while pension funds and insurance companies participate mainly in the secondary market. EU-based banks are also eligible to be primary dealers of Bulgarian government bonds.

In order to acquire Bulgarian government bonds, a foreign bank must register with the Ministry of Finance and open a "custody account" in Bulgarian Leva.

The Investment Promotion Act defines securities, including treasury bills, with maturities over six months as investments. Repatriation of profits is possible after presenting documentation that taxes have been paid.

J. POLITICAL VIOLENCE

There have been no incidents in recent years involving politically-motivated damage to projects or installations. Rather, violence in Bulgaria is primarily criminal in nature.

K. CORRUPTION

Despite numerous advances in laws and legal instruments, corruption is still one of the gravest problems in Bulgaria's investment climate. Bulgaria ranks 71st among 180 countries in Transparency International's (TI) Corruption Perception Index for 2009, up one place from 2008.

The established human trafficking, narcotics, and contraband smuggling channels that contribute to corruption in Bulgaria have yet to be broken. The Bulgarian public generally holds the police, the judiciary, customs officials, and politicians in low regard, due to their perceived corruption.

Bribery is a criminal act under Bulgarian law for both the giver and the receiver. Penalties range from one to fifteen years' imprisonment, depending on the circumstances of the case, with confiscation of property added in more serious cases. In very grave cases, the Penal Code specifies prison terms of 10 to 30 years. Bribing a foreign official is a criminal act. There have been trials and convictions of enterprise managers, prosecutors, and law enforcement officials for corruption. While Bulgarian tax legislation does not explicitly prohibit the deduction of bribes in the computation of domestic taxes, deductions connected with bribery and other illegal activities are not allowed under the tax code.

Bulgaria has a 1998 Law on Measures against Money Laundering, which also covers bribery, and in 1998 was one of the first non-OECD nations to ratify the OECD Anti-Bribery Convention. Bulgaria has also ratified the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of Proceeds of Crime (1994) and the Civil Convention on Corruption (1999). Bulgaria has signed and ratified the UN Convention against Corruption (2003); the Additional Protocol to the Council of Europe's Criminal Law Convention on Corruption; and the UN Convention Against Transnational Organized Crime.

The new Bulgarian government, elected in July 2009 on an anti-corruption platform, indicted four former ministers and dismissed several other ex-government officials for corruption. The government has initially demonstrated strong political will to restore public trust, but has yet to show sustained progress in the fight against organized crime and corruption.

L. BILATERAL INVESTMENT AGREEMENTS

As of 2010, Bulgaria has foreign investment promotion and protection treaties or agreements with Albania, Algeria, Argentina, Armenia, Austria, Belarus, Belgium-Luxembourg, China, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Egypt, Finland, France, Georgia, Germany, Greece, Hungary, India, Indonesia, Iran, Israel, Italy, Jordan, Kazakhstan, Kuwait, Latvia, Lithuania, Lebanon, Libya, Macedonia, Malta, Moldova, Mongolia, Montenegro, Morocco, Netherlands, Poland, Portugal, Qatar, Republic of Korea, Romania, Russia, Serbia, Singapore, Slovakia, Slovenia, Spain, Sweden, Switzerland, Syria, Thailand, Tunisia, Turkey, Ukraine, the United Kingdom of Great Britain and Northern Ireland, the United States, Uzbekistan, Vietnam, and Yemen.

Bulgaria has a Bilateral Investment Treaty (BIT) with the United States, which guarantees national treatment for U.S. investments and creates a dispute settlement process. The BIT also includes a side letter on protections for intellectual property rights. The Governments of Bulgaria and the United States exchanged notes in 2003 to make Bulgaria's obligations under the BIT compatible with its EU obligations, and finalized the process in January 2007.

M. OPIC AND OTHER INVESTMENT INSURANCE PROGRAMS

In 1991, the Overseas Private Investment Corporation (OPIC) and the Bulgarian government signed an Investment Incentive Agreement, which governs OPIC's operations in Bulgaria. OPIC provides medium- to long-term funding through direct loans and loan guarantees to eligible investment projects in developing countries and emerging markets. OPIC also supports a number of privately owned and managed equity funds, including a regional fund for Southeast Europe created in 2005 for investments in companies in Bulgaria and other Balkan countries. OPIC's Small- and Medium-Size Financing is available for businesses with annual revenues under USD 250 million. OPIC's structured financing focuses on U.S. businesses with annual revenue over USD 250 million and supports large capital-intensive projects such as infrastructure, telecommunications, power, water, housing, airports, hi-tech, and financial services.

OPIC offers American investors insurance against currency inconvertibility, expropriation, and political violence. Political risk insurance is also available from the Multilateral Investment Guarantee Agency (MIGA), which is a World Bank affiliate, as well as from a number of private U.S. companies.

N. LABOR

Bulgaria's workforce officially consists of 3,280,000 (third quarter of 2009) well-educated and skilled men (53 percent) and women (47 percent). The adult literacy rate in Bulgaria is 98 percent. A high percentage of the workforce has completed some form of secondary, technical, or vocational education. Many Bulgarians have strong backgrounds in engineering, medicine, economics, and the sciences, but there is a shortage of professionals with Western management skills. The demand for skilled managers is increasing with an influx of high technology, innovative and knowledge-based companies from the EU. The aptitude of workers and the relative low cost of labor are considerable incentives for foreign companies, especially those that are labor-intensive, to invest in Bulgaria.

The Bulgarian Constitution recognizes workers' rights to join trade unions and organize. The National Council for Tripartite Cooperation (NCTC) provides a forum for dialog among government, employer organizations, and trade unions on issues such as cost-of-living adjustments. An established practice each year of negotiating the so-called "social security thresholds" between trade unions and the employers organizations helps determine the minimum monetary basis for calculating the relative amount of employer and employee social security contributions.

Bulgaria has two large trade union confederations represented at the national level, the Confederation of Independent Trade Unions of Bulgaria (CITUB) and Confederation of Labor "Podkrepa" ("Support"). Currently, the estimated trade union membership is about 350,000 for CITUB and over 150,000 for Podkrepa. CITUB, the successor to the trade union integrated with the Communist Party, has been reformed and has long since severed its ties to the socialists, whereas Podkrepa is an independent confederation. There are very few

restrictions on trade union activity, but employees in smaller private are often not represented by trade unions. In addition, there are six nationally recognized employer organizations currently in Bulgaria which target different industry and company membership.

Under the Bulgarian Labor Code, employer-employee relations are regulated by employment contracts. The framework of the employment contracts can be shaped through collective bargaining. Collective

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labor contracts can be concluded at the sectoral level, enterprise level, and municipal level (only for activities financed by the budget). The labor code addresses worker occupational safety and health issues, establishes a minimum wage (determined by the Council of Ministers), and prevents exploitation of workers, including child labor. The labor code clearly delineates employer rights, strengthening management's hand in disciplining the workforce. Disputes between labor and management can be referred to the courts, but resolution is often subject to delays. The idea for establishing so-called "labor courts" has so far been in deadlock. Neither foreign companies, nor majority foreign-owned Bulgarian companies are exempt from the requirements of the labor code.

Over the last five years, the labor code has been amended to address labor market rigidities and bring labor legislation into compliance with EU requirements. In 2008, the Parliament passed changes in the labor legislation to increase fines to EUR 15,000 (USD 21,000) for labor code violations. The minimum annual paid leave is 20 days. As of January 2010, the minimum wage is BGN 240 (USD 171) per month.

During 2002-2003, the Ministry of Labor formed the National Institute for Conciliation and Arbitration (NICA), which developed framework for collective labor dispute mediation and arbitration. NICA includes representatives from labor, employers, and government. NICA-sponsored collective labor dispute resolutions are still few in number. A number of the appointed mediators received basic mediation skills training from the U.S. Federal Mediation and Conciliation Service. As of April 2009, there are 36 appointed mediators.

10. FOREIGN-TRADE ZONES/FREE-TRADE ZONES

There are six duty-free zones in Bulgaria: Ruse and Vidin ports on the Danube; Plovdiv; Svilengrad (near the Turkish border); Dragoman (near the Serbian border); and Burgas port on the Black Sea. They are all managed by joint stock or state-owned companies. The government provided land and infrastructure for each zone.

Foreign individuals and corporations, and Bulgarian companies with 1.0 percent or more foreign ownership may operate in a duty-free zone. Thus, foreign-owned firms have equal or better investment opportunities in the zones compared to Bulgarian firms. All forms of economic activity are permissible in duty-free zones. Foreign, non-EU goods delivered to the free zones for production, storage, processing, or re-export are VAT and duty exempt. Bulgarian goods may also be stored in free zones with permission from the customs authorities. With Bulgaria now in the EU, the duty-free zones no longer apply tax and duty exemptions to exports from Bulgaria to other EU countries.

EU integration has encouraged regional authorities to attract outside investors and spur local economic development. In partnership with the private sector, they provide resources (ground, infrastructure, etc.) for the development of industrial zones and parks, which are different from duty-free zones in that they do not provide for any form of preferential tax treatment. Currently, there are a total of 39 industrial zones at various stages of development.

11. FOREIGN DIRECT INVESTMENT STATISTICS

Between 1992 and 2008, total cumulative FDI into Bulgaria amounted to USD 43,574.7 billion (94 percent of GDP in 2008). FDI in 2008 totaled USD 8.9 billion (19 percent of GDP). Bulgaria's direct

investment stock abroad was a total of USD 661.9 million in 2008.

Total FDI in Bulgaria

Year	USD in millions
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1992	34.4
1993	102.4
1994	210.9
1995	162.6
1996	256.4
1997	636.2
1998	620.0
1999	818.8
2000	1,005.0
2001	812.9
2002	969.7
2003	2,099.0
2004	3,443.4
2005	3,916
2006	7,799

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2007	11,756
2008	8,932

Total 43,574.7

(Source: Bulgarian National Bank; Invest Bulgaria Agency)

FDI by Country of Origin (1996-2008)

Country	USD in millions
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Austria	7320.9
Netherlands	5,654.2
Greece	4,193.1
U.K.	3,696.1
Germany	3,040.6
Cyprus	2,354.3
Belgium and Luxemburg	2,198.6
USA*	1,753.7
Hungary	1,597.5
Italy	1,507.6
Russia	1,372.3
Ireland	1,385.6
Czech Republic	1,290.1
Spain	1,233.1
Switzerland	1,228.4
France	979.8
Turkey	492.8
Denmark	406.8
Israel	315.9
Slovenia	215.6
Latvia	207.4

(Source: Bulgarian National Bank; Invest Bulgaria Agency)

* Owing to methodological quirks, not all data accurately reflect investment rankings. Official investment statistics currently rank the United States 8th in terms of overall investment in Bulgaria for the period 1992-2007. While the Bulgarian Central Bank credits the United States with investments at the rate of \$40-\$50 million per year in the last eight years, this data does not capture a large share of U.S. FDI in Bulgaria, because it is channeled through European subsidiaries of American parent companies.

FDI by industry (1998-2008)

Industry	USD in millions
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Real estate and business activities	10,176.2
Financial activities	8,836.2

Manufacturing	8,525.1
Trade and repairs	7,504.7
Construction	3,063.4
Electricity, gas and water	2,633.8
Telecommunications and transport	2,406.8
Hotels and restaurants	720.5
Agriculture, forestry and fishing	248.6
Mining	180.9
Education	19.4

(Source: Bulgarian National Bank)

Selected Foreign Direct Investments (2007-2009)

(Investor Country, Sector, Bulgarian Firm, USD/mil.)

--Enel, Italy, power generation, Maritza Iztok Three, 312.7

--AES Geo Energy, U.S./Germany, renewable energy, AES Geo Energy, 252.8

--Wind Energy 2007, Japan, renewable energy, Wind Energy 2007, 218.2

--Alpic Group, Switzerland, renewable energy, Vetrocom, 115.8

--Electrawinds, Belgium, renewable energy, Electrawinds Bulgaria, 75.6

--Solvay, Belgium, manufacturing, Solvay Sodi, 71

--Wienerberger Solvay Group, Austria/Belgium, manufacturing, Pipelife Bulgaria, 45.3

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--Yazaki, Japan, manufacturing, Yazaki Bulgaria, 31.5

(Source: Invest Bulgaria Agency)

10. WEB RESOURCES

Embassy of the United States in Sofia, Bulgaria
<http://bulgaria.usembassy.gov/>

Overseas Private Investment Corporation
<http://www.opic.gov>

Export-Import Bank of the United States
<http://www.exim.gov>

United States Trade and Development Agency
<http://www.ustda.gov>

Invest Bulgaria Agency
<http://www.investbg.government.bg>

The Bulgarian Investment and Business Network
<http://www.investnet.bg/>

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